REMARKS

An Office Action for the subject patent application was mailed on or about April 10, 2007 rejecting claims 38-43 and withdrawing from consideration claims 1-37 and 44-49. Applicants respectfully traverse the rejections. By this amendment, Applicants cancel original claims 1-49 and request entry of new claims 50-55 replacing the subject matter of previous claims 38-43. Reconsideration of the pending claims 50-55 in light of the following remarks is respectfully requested.

Election/Restriction

Applicants confirm the election of the invention represented by claims 38-43 and hereby cancel claims 1-37 and 44-49 in the present application.

Objection to Claim 39 due to Informalities

The Office Action objected to claim 39 due to certain identified informalities. By this amendment, Applicants have cancelled claim 39 making the objection moot.

Rejection under 35 USC 103(a) of Claims 38-43

The Office Action has rejected claims 38-43 under 35 USC 103(a) as being unpatentable over Samiotes in view of Jones, Jr. et al.. By this amendment, Applicants have cancelled claims 38-43 and replaced such claims with new claims 50-55. Notwithstanding, Applicants respectfully traverse this rejection (as applied to new claims 50-55 for the reasons set forth in the paragraphs that follow.

New independent claim 50 recites:

"A method of inducing a drug from an inhaler into a spacer, the inhaler including a propellant gas at a predetermined pressure and a drug source disposed in a drug storage section, the method comprising the steps of:

injecting a first volume of the propellant gas from the inhaler directly into the spacer;

injecting a second volume of propellant gas into the storage section to aerosolize the drug, thereby producing a drug cloud; and

directing the drug cloud into the spacer."

It is well established that any rejection that is based on obviousness under 35 USC 103(a) requires application of the key factual inquires set forth in Graham v. John Deere Co., 148 USPQ 459 (1966). Two important factual inquiries, set forth in Graham v. John Deere Co. include: (1) determining scope and content of the prior art; and (2) ascertaining the differences between the prior art and the claims at issue. Unfortunately, the Office Action and its analysis of the Samiotes reference and the Jones, Jr. et al. reference fail to appreciate key differences between such references and the presently claimed invention.

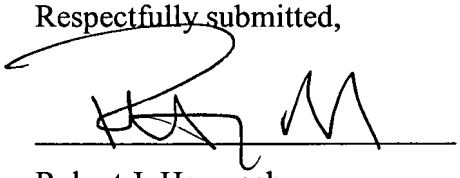
For example, new independent claim 50 requires the discrete steps of ***"... injecting a first volume of the propellant gas from the inhaler directly into the spacer;..."*** and " ***... injecting a second volume of propellant gas into the storage section to aerosolize the drug, thereby producing a drug cloud ..."***; Neither the Samiotes reference nor the Jones Jr. reference disclose these two injection steps. Rather the Samiotes reference uses a single supply of pressurized gas which is mixed with the medication (See Column 6, lines 50-60 of the Samiotes reference). Likewise, the Jones, Jr. et al. reference does not teach or disclose any of these claimed features.

Claims 51-55 are all dependent claims depending from independent claim 50 and, for the same reasons identified above are also believed to be allowable over the cited prior art.

No new matter has been introduced and the number of claims remaining after this amendment does not exceed the number previously paid for. In addition, please charge our deposit account 16-2440 for the 1-month extension fee. If there should be any additional fees please debit our 16-2440 account accordingly.

In light of the above amendments and remarks, reconsideration and allowance of the pending application is requested.

Respectfully submitted,



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